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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,731	11/11/2003	Michael Collier	005127.00307	5000
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BANNER & WITCOFF, LTD. 28 STATE STREET 28th FLOOR BOSTON, MA 02109-9601			LARSON, JUSTIN MATTHEW	
			ART UNIT	PAPER NUMBER
			3727	

DATE MAILED: 07/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/705,731

Applicant(s)

COLLIER ET AL.

Examiner

Justin M. Larson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 November 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 7,8,19-21,24 and 26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6,9-17,22,23,25 and 27 is/are rejected.
- 7) ☒ Claim(s) 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4/26/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Election/Restrictions***

1. This application contains claims directed to the following patentably distinct species:

Species I. Figures 1-5;

Species II. Figures 6-7;

Species III. Figures 9 and 14

Species IV. Figures 12, 13, and 15

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.

It should be noted, however, that claim 9 is broad enough to read on all of the species, however, this claim cannot be generic because species claims 1-8 do not require all of the limitations of claim 9, i.e. the strap and pad. See MPEP 806.04(d).

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations

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of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species.

MPEP § 809.02(a).

2. During a telephone conversation with Gregory J. Cohan on July 11, 2006, a provisional election was made without traverse to prosecute the invention of Species I, claims 1-6, 9-18, 22, 23, 25, and 27. Affirmation of this election must be made by applicant in replying to this Office action. Claims 7, 8, 19-21, 24, and 26 have been withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-6, 25, and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Pritchard et al. (US 3,883,053 A).

Regarding claims 1 and 25, Pritchard et al. disclose a bladder (10) for use with a strap (12) to carry a load comprising, in combination: a first longitudinal chamber (channel 42 running the length of the bladder); a second longitudinal chamber (42) spaced apart from and substantially parallel to the first longitudinal chamber; and a plurality of transverse chambers (22), each transverse chamber being connected at a first end thereof to the first longitudinal chamber and at a second end thereof to the

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second longitudinal chamber, in fluid communication with the first and second longitudinal chambers, and having a longitudinal axis extending substantially parallel to the longitudinal axis of the other transverse chambers.

Regarding claim 2, the bladder of Pritchard et al. comprises a flange portion (outer covering, joined at seams 34/36/38/40) surrounding the first and second longitudinal chambers.

Regarding claim 3, the bladder of Pritchard et al. includes two elongate flange apertures proximate the endmost transverse chambers (openings in the bladder covering at each end of the bladder that allow strap 16 to be fed there through), effectively satisfying the limitations of the claim.

Regarding claim 4, the longitudinal axis of each the first and second flange apertures is disposed at an angle with respect to a longitudinal axis of the bladder (note that the openings run perpendicular to seams 38 and 40 which Examiner considers to run along the longitudinal axis of the bladder), effectively satisfying the limitations of the claim.

Regarding claim 5, the bladder of Pritchard et al. comprises a plurality of elongate transverse apertures (the material around channel 42 forms an aperture in each transverse chamber 22, see Figure 6), each transverse aperture disposed between adjacent transverse chambers and having a longitudinal axis extending substantially parallel to a longitudinal axis of each of the other transverse apertures.

Regarding claim 6, the longitudinal axis of each transverse axis is disposed at an angle with respect to a longitudinal axis of the bladder (looking at Figure 6, the longest

dimension of the apertures 42 extends perpendicular to seams 38 and 40 which Examiner considers to run along the longitudinal axis of the bladder), effectively satisfying the limitations of the claim.

Regarding claim 27, the bladder of Pritchard et al. is made of flexible material (col. 3 lines 55-62). Examiner considers this flexible material structure to be an effective means for providing a twist in the bladder since it is the flexible nature of the material that allows the bladder to twist, effectively satisfying the limitations of the claim.

5. Claim 9 is rejected under 35 U.S.C. 102(b) as being anticipated by Preiss (US 6,644,522 B2).

Preiss discloses a strap for a device carrying a load comprising a pad (500 or 501) having a central aperture formed therein, a fluid-filled bladder (503) positioned within the central aperture and secured to the pad, and a length of webbing slidably connected to first and second ends (506 & 506') of the pad. Note that since little structure for the pad has been set forth, the entire cushion structure (500) or the frame (501) are both pads to the degree currently claimed.

6. Claims 9 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Weintraub (US 5,566,871 A).

Regarding claim 9, Weintraub discloses a strap for a device carrying a load comprising a pad (10) having a central aperture formed therein, a fluid-filled bladder (20/24) positioned within the central aperture and secured to the pad, and a length of webbing (12) slidably connected to first and second ends of the pad.

Regarding claim 22, Weintraub discloses a layer of compressible material (18) positioned adjacent the bladder.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 10-12, 14-17, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Preiss as applied in paragraph #5 above in view of Pritchard et al. as applied in paragraph #4 above.

Regarding claims 10, 11, 16, and 17, Preiss discloses the claimed invention except for the specific structural features of the bladder. Pritchard et al., however, disclose a bladder having all of the claimed structural features, namely a series of networked fluid chambers. It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the bladder (503) of Preiss with the bladder of Pritchard et al., since Preiss discloses that a bladder with networked chambers evenly distributes a load over a contact region of a user's body (col. 5 lines 37-42). Note that either of the sealing edge (363) and frame (501) can be considered the flange of claim 11. In this interpretation, Examiner is considering the pad to be the frame (501).

Regarding claim 12, Preiss discloses that the sealing edges (363) or flange of the bladder can be secured to the pad via glue (col. 4 lines 57-59).

Regarding claim 23, the claim contains the limitations of claims 11, 16, and 17, which have already been shown to be unpatentable over Preiss in view of Pritchard et al.

Regarding claim 14, Examiner is considering the pad to be the entire cushion structure (500), whereby the frame (501) is an effective flange having first and second flange apertures proximate endmost chambers of the bladder, effectively satisfying the limitations of the claim.

Regarding claim 15, the longitudinal axis of each the first and second flange apertures is disposed at an angle with respect to a longitudinal axis of the bladder (same logic as applied to claims 4 and 6 above), effectively satisfying the limitations of the claim.

9. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Preiss strap pad of paragraph #8 above in view of Schroeder (US 4,094,014 A).

The modified Preiss strap pad includes the claimed features except the rubber bladder (col. 3 lines 57-60) is secured to the pad using glue rather than being sewn thereto. Schroeder, however, while generally concerned with gloves, teaches that when attaching a rubber pad to another surface, glue and stitches are both effective attaching means (col. 2 lines 27-30). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use stitching, as taught by Schroeder, in place of the glue used by Preiss for attaching the rubber bladder to the pad, since it is known in the art that both glue and stitches are equivalent attachment means.



***Allowable Subject Matter***

10. Claim 18 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited art relates to shoulder strap pads.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M. Larson whose telephone number is (571) 272-8649. The examiner can normally be reached on Monday - Friday, 8am - 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

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USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JML  
7/11/06



**NATHAN J. NEWHOUSE  
SUPERVISORY PATENT EXAMINER**